

	U.S. ENVIRONMENTAL PROTECTION AGENCY Assistance Amendment		GRANT NUMBER (FAIN): 99248806	DATE OF AWARD 03/18/2015	
			MODIFICATION NUMBER: 2 PROGRAM CODE: BG		
			TYPE OF ACTION Augmentation: Increase		MAILING DATE 03/25/2015
			PAYMENT METHOD: Advance		ACH# 20047
RECIPIENT TYPE: State			Send Payment Request to: Las Vegas Finance Center		
RECIPIENT: New Jersey Dept of Environmental Protection 440 East State St., P.O. Box 420 Trenton, NJ 08625-0420 EIN: 21-6000928			PAYEE: New Jersey Dept of Environmental Protection 440 East State St., P.O. Box 420 Trenton, NJ 08625-0420		
PROJECT MANAGER Judy Jengo 440 East State St., P.O. Box 420 Trenton, NJ 08625-0420 E-Mail: judy.jengo@dep.state.nj.us Phone: 609-292-2885		EPA PROJECT OFFICER Richard Yue 290 Broadway, CASD/DO New York, NY 10007-1866 E-Mail: yue.richard@epa.gov Phone: 212-637-3424		EPA GRANT SPECIALIST Cynthia Pabon Grants and Audit Management Branch, OPM/GAMB E-Mail: pabon.cynthia@epa.gov Phone: 212-637-3405	
PROJECT TITLE AND EXPLANATION OF CHANGES FY 2014-2016 Performance Partnership Grant This amendment increases the obligated federal funds by \$2,506,000 and the EPA in-kind amount by \$94,949 which brings the total federal funding for this agreement (obligated and in-kind) to \$30,443,959. This agreement is in accordance with NJDEP's original application dated May 28, 2010, and amendments dated April 4, 2014, July 14, 2014, July 25, 2014, and January 15, 2015. All previous Terms and Conditions to this Agreement remain in effect, with the exceptions of Administrative Condition Nos. 1 (UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MBE/WBE)) and No. 5 (EXTENSION OF PROJECT/BUDGET PERIOD EXPIRATION DATE), which are superseded by the conditions in this amendment. This amendment also adds an entirely new set of General, and Grant-Specific Administrative and Programmatic conditions that apply to the unobligated balances and newly awarded funds in accordance with the Uniform Grants Guidance.					
BUDGET PERIOD 07/01/2013 - 06/30/2016	PROJECT PERIOD 07/01/2013 - 06/30/2016	TOTAL BUDGET PERIOD COST \$85,901,457.00	TOTAL PROJECT PERIOD COST \$85,901,457.00		
NOTICE OF AWARD					
Based on your Application dated 01/15/2015 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$2,506,000. EPA agrees to cost-share 68.64% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$30,443,959. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.					
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)		AWARD APPROVAL OFFICE			
ORGANIZATION / ADDRESS Grants and Audit Management Branch 290 Broadway, 27th Floor New York, NY 10007-1866		ORGANIZATION / ADDRESS U.S. EPA, Region 2 Clean Air and Sustainability Division 290 Broadway New York, NY 10007-1866			
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY					
Digital signature applied by EPA Award Official Richard Manna - Acting Assistant Regional Administrator for Policy and Management				DATE 03/18/2015	

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FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$ 27,565,510	\$ 2,506,000	\$ 30,071,510
EPA In-Kind Amount	\$ 277,500	\$ 94,949	\$ 372,449
Unexpended Prior Year Balance	\$ 0	\$	\$ 0
Other Federal Funds	\$ 0	\$	\$ 0
Recipient Contribution	\$ 0	\$	\$ 0
State Contribution	\$ 26,938,645	\$	\$ 26,938,645
Local Contribution	\$ 0	\$	\$ 0
Other Contribution	\$ 0	\$	\$ 0
Allowable Project Cost	\$ 54,781,655	\$ 2,600,949	\$ 57,382,604

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.605 - Performance Partnership Grants	Appropriations Act of 1996 (PL 104-134) Appropriations Act of 1998 (PL 105-65)	2 CFR 200 2 CFR 1500 40 CFR 33 and 40 CFR 35 Subpart A

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	1502HE0129	14	E1C	02M1	102A04	4108	-	-	6,000
-	1502HE0129	15	E1	02M1	102A04	4108	-	-	2,500,000
									2,506,000

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$39,550,842
2. Fringe Benefits	\$17,940,563
3. Travel	\$74,200
4. Equipment	\$1,243,000
5. Supplies	\$388,000
6. Contractual	\$2,847,404
7. Construction	\$0
8. Other	\$12,194,000
9. Total Direct Charges	\$74,238,009
10. Indirect Costs: % Base	\$11,663,448
11. Total (Share: Recipient <u>31.36</u> % Federal <u>68.64</u> %.)	\$85,901,457
12. Total Approved Assistance Amount	\$58,962,812
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$2,600,949
15. Total EPA Amount Awarded To Date	\$30,443,959

Administrative Conditions

All previous Terms and Conditions to this Agreement remain in effect, with the exceptions of Administrative Condition Nos. 1 (UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MBE/WBE)) and No. 5 (EXTENSION OF PROJECT/BUDGET PERIOD EXPIRATION DATE), which are superseded by the conditions in this amendment.

GENERAL TERMS AND CONDITIONS

The recipient agrees to comply with the current EPA general terms and conditions available at: http://www.epa.gov/ogd/tc/general_tc_applicable_aa_recipients_dec_26_2014.pdf.

These terms and conditions are in addition to the assurances and certifications made as part of the award and the terms, conditions or restrictions cited below.

The EPA Repository for the general terms and conditions by year can be found at: <http://www.epa.gov/ogd/tc.htm>

GRANT-SPECIFIC ADMINISTRATIVE TERMS AND CONDITIONS

A. GOVERNING REGULATIONS FOR MONETARY AMENDMENTS ORIGINALLY AWARDED USING 40 CFR PARTS 30 OR 31

Although page 2 of this amendment cites the new governing Federal Grant Regulations at 2 CFR Parts 200 and 1500, please note that these regulations apply solely to the newly added funds and any previously awarded funds not yet obligated (unobligated balances defined at 2 CFR 200.98) by the recipient as of the award date of this amendment. The governing regulations (40 CFR 30 or 31 as applicable) cited in prior amendments remain in effect for funds obligated by the recipient prior to the award date of this amendment.

B. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES

MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E

MBE/WBE reporting is required in annual reports. Reporting is required for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category that exceed the threshold amount of \$150,000, including amendments and/or modifications.

Based on EPA's review of the planned budget, this award meets the conditions above and is subject to the Disadvantaged Business Enterprise (DBE) Program reporting requirements. However, if recipient believes this award does not meet these conditions, it must provide the Grants Specialist with a justification and budget detail within 21 days of the award date clearly demonstrating that, based on the planned budget, this award is not subject to the DBE reporting requirements.

The recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants,

Cooperative Agreements and Interagency Agreements” report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable, not just that portion which exceeds \$150,000.

When completing the annual report, recipients are instructed to check the box titled “annual” in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the “last report” of the project in section 1B of the form. Annual reports are due by October 30th of each year. Final reports are due by October 30th or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

MBE/WBE reports should be sent to the Region 2 Grants Office’s central mailbox (Region2_GrantApplicationBox@epa.gov) with a courtesy copy to the grants specialist. The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program’s Home Page at http://www.epa.gov/osbp/dbe_reporting.htm

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Good Faith Effort requirements as described in 40 CFR Part 33 Subpart C, and Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D and explained below.

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

Current Fair Share Objective/Goal

The dollar amount of this assistance agreement or the total dollar amount of all of the recipient’s financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The **New Jersey Department of Environmental Protection** has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

- for New Jersey MBE: Construction: 5.3%
- for New Jersey WBE: Construction: 12.6%

- for New Jersey MBE: Equipment, Supplies and Services: 1.1%
- for New Jersey WBE: Equipment, Supplies and Services: 3.4%

Negotiating Fair Share Objectives/Goals

In accordance with 40 CFR, Part 33, Subpart D, established goals/objectives remain in effect for three fiscal years unless there are significant changes to the data supporting the fair share objectives. The recipient is required to follow requirements as outlined in 40 CFR Part 33, Subpart D when renegotiating the fair share objectives/goals.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
- If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create

and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

C. ADVANCE METHOD OF PAYMENT

Pursuant to 2 CFR 200.305, the recipient is authorized to receive advance payments under this agreement, provided that the recipient takes action to minimize the time elapsing between the transfer of funds from EPA and the disbursement of those funds. The recipient shall request Federal payments by completing the EPA Payment Requests Form (EPA Form 190-F-04-001) and either emailing or faxing it to the Las Vegas Finance Center at LVFC-grants@epa.gov or 702-798-2423. This form can be found at www.epa.gov/ogd/forms/forms.htm. All email attachments must be sent in pdf format.

D. EXTENSION OF PROJECT/BUDGET PERIOD EXPIRATION DATE

EPA has not exercised the waiver option to allow automatic one-time extensions for non-research grants under 2 CFR 200.308 (d)(2). Therefore, if a no cost time extension is necessary to extend the period of availability of funds (budget period), the recipient must submit a written request, including a justification as to why additional time is needed and an estimated date of completion to the EPA prior to the budget/project period expiration dates. The extension request should be submitted to the EPA, Grants and Audit Management Branch using one of the following options: email to Region2_GrantApplicationBox@epa.gov, fax to 212-637-3518 or sent to us in the mail at U.S. EPA - Region 2, 290 Broadway, 27th Floor, New York, NY 10007. An interim FFR (SF-425) covering all expenditures and obligations to date, must be emailed or faxed to the Las Vegas Finance Office at LVFC-grants@epa.gov or 702-798-2423 or sent to US EPA, Las Vegas Finance Center, 4220 S. Maryland Pkwy, Bld C, Rm 503, Las Vegas, NV 89119. To expedite processing of your request, please submit a courtesy copy of the interim FFR to the Grants and Audit Management Branch along with your extension request. All email attachments must be sent in pdf format. Documents emailed to us in any other format cannot be accepted.

Programmatic Conditions

All previous Programmatic Conditions remain in effect for funds awarded and obligated prior to the date of this amendment with the exception of the following conditions which have been satisfied;

Condition 14, CLEAN AIR SECTION 105 SUPPLEMENTAL FUNDS WORK PLAN;

Condition 15, CLEAN WATER ACT 319(h) AND CLEAN WATER ACT SECTION 106 DISCRETIONARY FUNDS WORK PLAN - SLOCUM GLIDER OPERATION AND MAINTENANCE; and

**Condition 16, Clean Water Act Section 106 Discretionary Funds Work Plan CLEAN WATER ACT SECTION 106 DISCRETIONARY FUNDS WORK PLAN
- CITIZEN SCIENCE IN BARNEGAT BAY**

A. EPA INVOLVEMENT IN THE COOPERATIVE AGREEMENT

EPA's substantial involvement is defined in jointly developing environmental goals within a workplan; identifying specific measures of progress towards these goals; and articulating strategies and actions designed to achieve them. EPA oversees the implementation of State-authorized programs, and provides technical and analytical support for State-authorized programs. EPA's substantial involvement is met by providing input in workplans and program activities, holding regular conference calls and site visits with NJDEP to discuss progress towards environmental program management and implementation.

B. PERFORMANCE REPORTING AND FINAL PERFORMANCE REPORT

Performance Reports:

The recipient shall submit, to the EPA Project Officer, **annually** performance reports (preferably electronic copies) due by September 30 of each year, starting on September 30, 2014, for the duration of the agreement. In accordance with 2 CFR 200.328, the recipient agrees to include in performance reports submitted under this agreement brief information on each of the following areas:

- 1) a comparison of actual accomplishments with the anticipated outputs/outcomes specified in the assistance agreement work plan;
- 2) reasons why anticipated outputs/outcomes were not met;
- 3) other pertinent information, including, when appropriate, analysis and explanation of cost overruns or high unit costs;

In accordance with 2 CFR 200.328(2)(d)(1), the recipient agrees that it will notify EPA of problems, delays, or adverse conditions which materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan.

Final Performance Report:

The recipient agrees to submit two copies of the Final Performance Report to the EPA Project Officer. The Final Project Report is due within 90 days after the end of the budget/project period. The report will include any agreed-upon work-product(s) resulting from the project and the following:

- 1) an abstract or overview of the project including completed workplan activities;
- 2) a comparison of actual accomplishments with the anticipated outputs/outcomes specified in the assistance agreement work plan;
- 3) reasons why anticipated outputs/outcomes were not met;
- 4) other pertinent information, including, when appropriate, analysis and explanation of cost overruns or high unit costs;
- 5) the methods to be used to effectively disseminate project information and/or continue

the benefits of this project (although the project itself may not be continuing);

6) materials generated in connection with project activities (e.g., workshop announcements, newspaper/newsletter announcements, articles or releases, press packets, pamphlets, etc.).

C. EQUIPMENT

The EPA Project Officer must approve the planned purchase of equipment with a unit costs of \$5,000 or more before such costs can be charged to the grant. Therefore, for any items of equipment costing \$5,000 or more, a list of equipment proposed to be purchased along with a justification as to the need for purchasing the equipment must be provided to the EPA Project Officer.

D. COMPUTER EQUIPMENT PURCHASES

The recipient shall obtain approval by the EPA, Region 2 Information Resources Management Branch, prior to the purchase of computer equipment, computer services or digital data with a unit price of \$5,000 or more.

E. DISPOSAL OF EQUIPMENT

NJDEP will use, manage and dispose of equipment acquired under this Assistance Agreement in accordance with 2 CFR 200.313, as appropriate and Grant Policy Issuance 02-02.1.

F. SATISFACTORY PROGRESS - NONPOINT SOURCE

In accordance with the provisions of the Clean Water Act, Section 319(h)(8) and the "Nonpoint Source Program and Grants Guidelines for States and Territories" published in the Federal Register in 2003, EPA Region 2 has determined that New Jersey has made satisfactory progress in meeting the schedule of milestones as delineated in the state's management program plan or the annual state workplans. This determination was based on the review of the State's Annual Nonpoint Source Reports, State's data input into the Grants Reporting and Tracking System (GRTS), status on annual workplan and grants applications, and any additional documents submitted in regards to the Section 319 Nonpoint Source Program. Award of future nonpoint funds is contingent upon the availability of funds and continued satisfactory progress in meeting the schedule of established milestones.

G. OPERATION AND MAINTENANCE

The recipient will assure that best management practices (BMPs) cost-shared under this agreement are properly operated and maintained for the life of the practice, unless a particular BMP did not function as planned. The State must assure that any sub-award of Section 319 funds similarly include this condition. Additionally, EPA and the State reserve the right to periodically inspect a practice during the life span of the project and may request a refund for a project in which Operation and Maintenance is not performed.

H. NONPOINT SOURCE NATIONAL MEETINGS

States are to set aside an appropriate amount of Section 319 funds in order to attend National

Nonpoint Source Meetings.

I. COMPETENCY OF ORGANIZATIONS GENERATING ENVIRONMENTAL MEASUREMENT DATA

In accordance with EPA's Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, for all awards where the maximum value of the assistance agreement will exceed \$200,000 in federal funding and the project will involve the generation or use of environmental data, the Recipient will be required to demonstrate competency prior to award. Alternatively, where a pre-award demonstration of competency is not practicable, the Recipient must demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. The Recipient shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy, including methods by which competency may be demonstrated, is available online at http://www.epa.gov/fem/lab_comp.htm.